EXECUTIVE OFFICE OF ELDER AFFAIRS

STATE LONG TERM CARE

OMBUDSMAN PROGRAM

ANNUAL REPORT TO THE LEGISLATURE

FISCAL YEAR 1988

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Dedication

This report is dedicated to the memory of those Ombudspeople who died while in service to the residents this past year. Their deaths are a great loss to the Ombudsman Program and the residents alike. Their efforts will always be remembered.

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EXECUTIVE SUMMARY

Executive Summary

The Massachusetts Long Term Care Ombudsman Program has been sponsored by the Executive Office of Elder Affairs since 1973. The Program provides complaint resolution services and advocacy to the more than 54, ØØØ elderly residents of Massachusetts nursing and rest homes.

The Ombudsman Program is required by Massachusetts General Law Chapter 19A Section 33 to prepare an Annual Report to the Legislature on the Program's activities as well as its Findings and Recommendations on Long Term Care. This report fulfills this requirement.

The Ombudsman Program is staffed by nearly 3ØØ workers, many of whom are older volunteers. All are trained and certified by the State Long Term Care Ombudsman Program. The Program provided almost 1.3 million resident contacts and processed 6,44Ø complaints and problems. Increased recruitment efforts and management have extended Ombudsman services to 96% of the facilities on a weekly basis, which was an increase of 1Ø% over the previous year.

Ombudspeople continue to tackle difficult problems regarding Medicaid Discrimination, lack of staff, inadequate physician services, lack of activities and transportation services, and residents' rights violations. More than 85% of all the complaints are resolved in the facility, working cooperatively with the staff.

The Executive Office of Elder Affairs has also sought the assistance of other state agencies which receive and process nursing or rest home complaints. The complaint statistics from these agencies are contained in the appendices. This information provides the only aggregated source of data on barriers to quality of care and life which have been identified by state government.

The Recommendations of this report call for Legislative action, regulatory reform and policy initiations. The Major Recommendations of this report are:

- o Passage of the Equal Access Legislation to eliminate Medicaid Discrimination on admission to nursing homes.
- o A cooperative effort between the Office of Handicapped Affairs and the Department of Public Health to ensure all facilities are handicapped accessible for residents.
- o Revision of the Determination of Need Process to adequately reflect the needs and future needs of elders for nursing and rest home care.
- o Expand the pool of receivers and strengthen the emergency fund for receiverships.

In order to bring about changes to the system, the industry, the Legislature, state agencies , advocates and consumers will have to work together in a spirit of cooperation. The progress made in the past year are a testament to the willingness of the parties to try.

INTRODUCTION

INTRODUCTION

The Massachusetts Long Term Care Ombudsman Program

The word Ombudsman is a title for an individual who receives and investigates complaints from the public regarding an institution and through various dispute resolution techniques, attempts to develop a cooperative resolution.

The Long Term Care Ombudsman Program was established in Massachusetts in 1973 as a program of the Executive Office of Elder Affairs for the benefit of the Commonwealth's 54,000 elderly residents of nursing and rest homes. It is a mandated program under the Federal Older Americans Act which funds the activities, and is also established by Massachusetts General Law Chapter 19A S28 to permit Ombudsman Representatives access to all licensed facilities. The Program, like other Ombudsman Programs, has four main goals:

1. The receipt, investigation and resolution of nursing and rest home complaints.

2. The protection of the rights of residents

3. The provision of information on Long Term Care Issues to residents, families and staff.

4. Advocating for positive changes to the Long Term Care System which will have an impact on the quality of care, life and environment in all Massachusetts nursing and rest homes.

The services of the statewide Long Term Care Ombudsman Program are provided by a system of nearly three hundred workers, the majority of whom are trained, older volunteers, operating from twenty-seven designated local programs throughout the state. Each program is under the direction of a paid, full-time professional Program Director who reports directly to the State Ombudsman at the Executive Office of Elder Affairs.

The activities of the Ombudsman Program continue to expand. In FY '88 the program provided weekly visitation to 96% of the licensed, adult nursing and rest homes in the Commonwealth. This represents coverage to 708 of a possible 736 facilities. The Ombudspeople made 1,279,225 resident contacts during the year, an increase of 26% over the past fiscal year.

The number of complaints received continues to increase which is a result of providing expanded services as well as improved complaint identification and resolution skills of the Ombudspeople. In FY '88 the Ombudsman Program processed 6,440 complaints and problems from residents, families, staff and interested others. This represents an increase of 1,200 complaints over the previous year.

Complaints that Ombudspeople addressed were very diverse. They range from patient care to quality of life issues such as a lack of transportation or meaningful activities. The philosophy of the Ombudsman Program is to attempt to resolve complaints whenever possible working in cooperation with the staff of the facilities. We are successful in more than 85% of the cases using this process. If the complaint can not be resolved locally, the State Ombudsman's Office becomes involved and if no resolution is reached at this level, the complaint is referred to a variety of state and federal agencies having jurisdiction over the type of complaint.

In the coming year, the Ombudsman Program will be challenged to continue to expand and refine services. Recent changes on both the federal and state level have called for greater involvement of Ombudspeople in ensuring residents receive the best quality of care and life possible. The Executive Office of Elder Affairs is prepared to lend the full strength of a cabinet level agency to promote and expand the services provided to the 54,000 elderly consumers of facility-based long term care.

MAJOR ACCOMPLISHMENTS

Major Accomplishments

The entire Ombudsman statewide Ombudsman Program made significant strides to improve the quality of care and life for residents in nursing and rest homes.

Outreach

In addition to resolving resident complaints, a major focus of the Ombudsman Program is to educate consumers as to residents' rights and to enable them to access the services of the Ombudsman Program. In FY 1988 the Ombudsman Program responded to more than 5,200 requests for information and referral and made more than 500 community Outreach Presentations. State and Local staff provided newspaper, cable TV and radio interviews on Medicaid Discrimination, Residents Rights, How to Select a Nursing Home and the Services of the Ombudsman Program.

Development of an Interagency Memorandum of Understanding Between the Executive Office of Elder Affairs and the Department of Public Health.

Since its creation in 1973, the Ombudsman Program has performed duties which were closely connected to some of the services provided by the Department of Public Health. Concerns over responsibilities has often led to divisiveness rather than cooperative behavior. The new Memorandum of Understanding distinguishes roles and responsibilities for each agency including the complaint referral process to be used by both. Further, it outlines new cooperative endeavors between agencies for information sharing, joint investigations, participation or advisory committees, cooperation on surveys and interagency training.

Hospital Conversion Guidelines

Chapter 23 of the Acts of 1988 called for the Conversion of Under-utilized Hospital Beds to other uses, including long term care beds. The Executive Office of Elder Affairs has been a strong advocate for quality and access to long term care facilities through the Determination of Need (DON) Program and comments on all long term care applications before the Public Health Council. Because some hospitals had decided to convert beds in the past year and as a result of the passage of Chapter 23, Elder Affairs, during the Spring of 1988, developed conversion guidelines which consisted of twenty-three items which Elder Affairs considered crucial to any conversion of hospital beds to nursing home beds. Many items involved quality of life requirements that had been missing in previously submitted D.O.N. applications. These criteria were presented to the Massachusetts Hospital Association as well as to individual hospitals and served as the basis of discussion for the recently developed hospital conversion guidelines of the Department of Public Health.

Equal Access Legislation

The Secretary of Elder Affairs in conjunction with the State Long Term Care Ombudsman Program, significantly re-drafted and filed the Equal Access Legislation. Now closely modeled after existing Connecticut Legislation and Regulations, the bill provides for an equitable system of admission to nursing homes and will, once enacted, provide an answer to the extremely prevalent problem of Medicaid Discrimination.

Interagency Work

The staff of the Executive Office of Elder Affairs, and in particularly, the State Long Term Care Ombudsman Program, devotes significant effort to advocating for positive changes to the Long Term Care System. In many cases, these efforts are directed toward cooperative interagency efforts on a variety of issues.

Interagency Council

An Interagency Council, consisting of the Governor's Office staff and the Secretaries of Elder Affairs, Human Services, Consumer Affairs and Communities and Development and various Commissioners and other staff was convened to address issues and concerns of providing a continuum of long term care services. The group has discussed and planned initiatives that relate to long term care insurance, restructuring the Determination of Need Program and re-examination of rest homes' role within the continuum.

Risk Model

An interagency group consisting of Elder Affairs, Human Services, Department of Public Health, Rate Setting Commission, Department of Public Welfare, and the Attorney General staff began meeting in early 1988 to identify common characteristics of facilities which were the subject of serious enforcement actions. These meetings resulted in the development of a preliminary risk model. The various agencies have agreed to provide data to the Long Term Care Ombudsman Program, which, until a permanent location for a data base can be developed, will coordinate the information process. The ultimate goal of this effort is the early identification of facilities which might experience difficulties and the development of a process to intervene and halt a decline of patient care of services in homes that exhibit the commonly identified characteristics.

Interagency Work Group on Troubled Facilities

Convened by the Executive Office of Human Services, this group meets weekly to address and resolve specific facility problems and identify issues which require systemic changes. The existence of this group has dramatically strengthened interagency cooperation. One of the results of this group's work was the infusion of $20 million dollars in July 1988 to address the labor crisis confronting the nursing home industry.

Specific Agency Work

Department of Public Health

In addition to the Memorandum of Understanding, the Ombudsman Program worked with the Department of Public Health on the following efforts.

- o The State Ombudsman provided training to facility surveyors/inspectors on the role and function of the Ombudsman Program and future cooperative efforts to enhance residents' participation in the survey process.

- o Participation on groups that developed either new regulations or guidelines regarding:

  -Regulations for Nurse Aide Training
  -Regulations implementing the new Suitability Legislation
  -Guidelines for the Conversion of Hospital Beds to Nursing home beds.
  -Guidelines for interpreting necessary administrators hours for smaller facilities.
  -Examination of new position between nurses aide and L.P.N to be part of an effort to create career ladders in nursing homes.

Rate Setting Commission

The development of the pilot project for the Prospective Reimbursement or Case Mix Program was an enormous task. The project will be implemented on January 1, 1989 and will move statewide in January 1990. In addition to working on the development of the necessary regulations and procedures to implement this project, the Ombudsman Program also commented on regulations regarding:

1. Transportation for nursing home residents
2. Posting notices of wage increases in multiple languages to accommodate non-English speaking employees
3. Supporting the use of Massachusetts Labor Specific Indicators to increase nursing home interim rates.

Additionally, the Ombudsman Program identified a conflict between the Attorney General's and the Rate Setting Commission's Regulations regarding retrospective charges for private paying residents which will hopefully be resolved in future regulations.

Department of Public Welfare

The Ombudsman Program worked extensively with the Department of Public Welfare to develop mutually acceptable plan through the Determination of Need Process and through legislation to address Medicaid access to nursing homes. Elder Affairs also worked closely with the Department of Public Welfare to develop a realistic Administrative Day Incentive Program.

Attorney General's Office

Consumer Protection

During the course of the last year, the Ombudsman Program worked closely with the staff of the Attorney General to bring about positive changes to the care and services residents receive. FY'88 witnessed the increase of very complicated cases of receivership and functional receivership which had a dramatic impact on resident care. The Ombudsman Program participated in tactical and negotiation sessions with the staff of the Attorney General and providers.

Another area of significant cooperation was that of individual cases of Medicaid Discrimination. Together, the Attorney General's staff and the Ombudsman Program were able to:

- Prevent multiple cases of illegal room transfers once residents' private funds ran out;
- Secure reimbursements to several families which were forced to pay for illegal private contract provisions;
- Secure admittance for several Medicaid residents who were being discriminated against by the facility in favor of private paying applicants;
- Return thousands of dollars to residents whose personal needs allowances were stolen by an unscrupulous provider.

The State Ombudsman was also given the opportunity to work closely with the Attorney General's staff to draft new Consumer Protection Regulations relating to the rights of nursing and rest home residents which will do much to resolve many of the common problems which residents face.

Board of Registration in Medicine

The Board of Registration in Medicine and the Ombudsman Program worked together to develop regulations which govern the credentialling of physicians in nursing homes and developed a process to report unprofessional conduct which results in improper or inadequate medical care being delivered to residents of nursing homes.

Department of Mental Retardation

The Ombudsman Program continues to work with the Department of Mental Retardation to fulfill a Memorandum of Understanding designed to provide cooperative services to mentally retarded residents of nursing and rest homes. Among the cooperative efforts have been joint trainings and informational regional meetings.

Board of Registration of Nursing Home Administrators

As a member of the Board of Registration of Nursing Home Administrators, the State Ombudsman has continued to work to ensure the highest quality of professional administrator services being provided in nursing homes. The Board has, in the past year, taken a very active approach to disciplining administrators who have failed to ensure a safe environment for residents or who engaged in unprofessional conduct.

The Executive Office of Human Services

The Ombudsman Program, representing the Executive Office of Elder Affairs, has had the opportunity to participate on a variety of standing and ad hoc committees addressing long term care issues. In addition to groups and task forces previously listed, the Ombudsman Program has worked on:

- The Worker Availability Task Force which was designed to specifically identify barriers to health care workers entering professions in nursing and rest homes; and
- An Interagency Group whose main goal was to identify reasons why Rest Homes were leaving the system in significant numbers, and to develop short and long term solutions to the problems.

Advocacy on the Federal Level

Health Care Financing Administration

The Executive Office of Elder Affairs convened a large group of consumers, advocates, providers and other state agencies to review the new proposed Conditions of Participation and subsequently developed indepth comments and alternative procedures to ensure quality of care.

Further, the Ombudsman Program initiated several joint trainings between Ombudspeople and HCFA surveyors to strengthen the understanding of individual roles and develop lines of communication and information flow.

- The State Ombudsman was selected to participate on a national advisory group to develop strategies to implement provisions of the Omnibus Budget Reconciliation Act of 1987 and Federal Conditions of Participation.

Administration on Aging

The Executive Office of Elder Affairs provided comments on the regulations designed to implement the provision of Ombudsman Services under the federal Older Americans Act.

Other Efforts and Accomplishments

Recertification

In an effort to ensure the highest quality of service provided by the Ombudsman Program, the State Ombudsman staff developed and provided recertification training for approximately 200 Ombudspeople.

Governor's Conference

The Ombudsman Program organized and moderated a panel at the 1988 Governor's Conference which dealt with issues of providing facility-based long term care. The panel presentation was very successful and attended by nearly 100 elders.

Area Agency Needs Assessments

The Executive Office of Elder Affairs advocated for a change in the Area Agencies Needs Assessment process to ensure nursing and rest home residents to have a voice in the setting of local priorities for elderly services.

Local Efforts

Ombudspeople at the local level have been very successful in addressing unusual problems. For instance, a local Ombudsman assisted several nursing home residents to be considered for a new congregate housing project and was successful in having one resident placed. Ombudsmen all over the state have intervened to block inappropriate transfers in nursing and rest homes. In one home, twelve Level II residents were threatened with a move the next day, when the Ombudsman stopped the process.

Another area where Ombudspeople have worked effectively is that of retroactive payments of public benefits to residents. Without Ombudsman help, many residents would not have had the opportunity to benefit from the retroactive settlement. In an unusual case, the local Ombudsman was able to assist residents who wanted to have a memorial dedicated to Veterans to be constructed. Although it took months, a memorial was constructed.

FINDINGS
PROGRESS
&
RECOMMENDATIONS

Findings, Progess and Recommendations

This report contains specific issues identified in Ombudsman complaints recorded throughout the state. Despite the large number of complaints, they generally were disbursed in several major categories: patient care, access to care, environmental issues, residents rights and activities.

The State Ombudsman Program surveyed the nearly 300 Ombudspeople for their Recommendations to improve the quality of care, life and environments in Massachusetts nursing and rest homes. As a result, many of the recommendations contained in this report come from individuals on the "front line" and represent practical solutions for problems that confront residents on a daily basis.

Patient Care

Staffing

The employment situation for nursing and rest homes continued to deteriorate in Fiscal Year 1988. Despite efforts to recruit new staff, facilities reported an increase in the number of vacancies, usage of pool staff and usage of non-English speaking staff.

The Rate Setting Commission's data supported the increased use of pools or purchased services in nursing homes:

Calendar Year	Total Purchased Services	% of Purchased Services Total Nursing Salaries and Benefits
1983	$8,260,488	2.997%
1984	$12,961,234	4.620%
1985	$20,405,411	6.551%
1986	$34,174,254	9.523%
1987	$70,737,749	17.30%

The staffing shortage places burdens on existing staff to do more with less. Residents are significantly affected by the shortage as well as by turnover. Ombudspeople note that many workers lack the proper attitude to care for frail elderly residents. The most expedient treatment, instead of the treatment that will enhance quality of life, is commonly given. An example of this type of problem would be to place diapers on everyone who requires assistance to get to the bathroom, instead of engaging in a schedule of regular toileting or developing bowel and bladder training programs. There were 418 complaints in FY '88 regarding poor hygiene and unanswered call bells.

Supervision

The staffing environment places increased burdens on supervisory staff to closely monitor the care that is being provided. However, the staffing patterns which exist today were developed in the 1970's. Increased regulatory requirements for supervision is not the only answer, however, for many facilities utilize temporary staff in supervisory capacities now. The lack of adequate supervision was the basis of 218 Ombudsman complaints.

The lack of supervision creates many problems. For instance, Ombudspeople note a general lack of attention to restorative care and reported 147 complaints of this type. Residents are not given the support to attempt to improve their condition through rehabilitation and basic motivation. Additionally, the dignity that should be accorded to all residents in their treatment, is lacking. Unanswered call bells result in residents soiling themselves and often having to sit for long periods of time before help arrives.

Another problem that manifests itself due to a lack of supervision is that of patient safety. The Ombudsman Program noted an increase in resident assaults against another resident. Unfortunately, many of these incidents could be avoided by proper supervision and staff that is trained to recognize and diffuse potential situations before they erupt.

When residents assault one another or there are other safety problems such as unsupervised smoking situations, everyone is affected. More often than not, the assaultive resident does not receive the appropriate treatment in the facility, such as mental health intervention and the resident may ultimately be transferred from the facility. Further, for the resident who was attacked, and when the staff fails to adequately protect him or her, he or she lives in fear that another episode will occur.

Physician Involvement

Facilities and Ombudspeople continue to complain about the lack of physician involvement in nursing and rest homes. In another related issue, residents complain that their doctor does not conduct the physical examination that is required. He or she simply sits at the desk and writes orders. The Ombudsman Program has filed 85 neglect complaints with the Department of Public Health in the last year which dealt with a resident not receiving emergency medical care. In 57 cases, despite the nurses' repeated efforts to contact the resident's physician for direction in treatment, the physician has failed to respond. This failure to respond has severely jeopardized the residents.

Progress

While many of the problems continue to prevent residents from receiving good quality of care, there has been some very significant progress made to address patient care on both the federal and state level.

1. Congress passed the Omnibus Budget Reconciliation Act (OBRA) of 1987 which contained significant quality of care reforms. Some of the reforms included equalizing nursing requirements for intermediate care facilities to those of skilled nursing facilities, nurses aide training requirements and pre-screening for nursing home admissions as well as significant protection for patients rights.

2. The Department of Public Health and the Executive Office of Elder Affairs have signed a Memorandum of Understanding which developed new areas of cooperation on the survey process, complaint resolution and monitoring and will result in improved patient care.

3. The Commonwealth, in an effort to address the wage problem of nursing home staff, increased each facility's per diem rate by $6.92 in July 1988. The nearly $20 million dollars was to be utilized to raise direct care staff's salaries. Additionally, the new Cost Adjustment Factors for nursing and rest home rates will contain a Massachusetts Labor Specific Inflation factor for wages.

4. The FY 1989 State Budget called for the regulation of temporary pool agencies by both the Department of Public Health and the Rate Setting Commission. The Department of Public Health will establish a registry and quality standards while the Rate Setting Commission will establish a process to regulate spiralling costs.

5. The Worker Availability Commission was established by the Legislature and is expected to begin its efforts during the Fall of 1988. Additionally, Interagency Groups have been convened in both the Executive Office of Human Services and the Department of Public Health and have been exploring the barriers and strategies to improving the supply of Health Care Workers in the Commonwealth.

6. The Department of Public Health has developed Nurses Aide Training Regulations and is waiting for final approval from the Health Care Financing Administration prior to implement the new requirements.

7. The Department of Public Welfare and the nursing home industry have developed a successful joint program to place Employment and Training (E.T.) graduates in Long Term Care Facilities.

8. The Industry and private Educational groups have received state grants to establish English as a Second Language (E.S.L.) courses in nursing homes and are working to expand the number of homes participating.

9. The Board of Registration in Medicine has been working to develop new regulations which will address the coordination of physicians in nursing homes and provide an avenue to make complaints regarding physician's conduct in long term care facilities.

RECOMMENDATIONS:

Recommendation #1

The Executive Office of Human Services should continue its efforts to address the wage issue for long term care facility staff and, in particular, attempt to correct the gap that exists between nursing and rest home staffs' wages for similar jobs.

Recommendation #2

The Department of Public Health's Determination of Need Program should encourage the development of on-site day care for employees in all new nursing home construction projects.

Recommendation #3

The Department of Public Health should revise its regulations for staffing in nursing and rest homes to require greater supervision, the creation of new worker categories which would provide a career ladder for nurses aides, and allow for greater flexibility in scheduling workers which might broaden the concept of shifts.

Recommendation #4

The Rate Setting Commission should revise the methodology used to calculate nursing ceilings to exclude wages paid in lieu of benefits from the ceilings. This would enable facilities to be flexible and provide incentives for workers to remain permanently employed rather than seeking employment in temporary agencies.

Recommendation #5

The Nursing Home Industry, the Department of Public Health and the Executive Office of Elder Affairs should collaborate to develop a process that would enable residents to have significant input into their care plans as well as to develop regular meetings between residents and direct care staff to discuss problems and issues within the facilities.

Recommendation #6

The Executive Office of Human Services should develop a system of citations which would fine facilities for violations of Public Health, Public Welfare or Rate Setting Commission Regulations. Any fines that are collected should be funneled to the Emergency Receivership Fund to enable the state to adequately protect residents in facilities under a receivership action.

Recommendation #7

The Department of Public Health should immediately initiate steps to ensure that rest homes are inspected according to the schedule of every two years.

Access to Care

Access to nursing homes is becoming more and more difficult every year. Several factors are major contributors to the problem: Medicaid Discrimination; Availability of Beds; and inadequate planning for the future needs of the elderly.

In FY '88 several groups assessed the need for beds. On any given day, there are approximately 500 Medicaid recipients residing in the hospital who were awaiting placement in a long term care facility.

In February 1988, the Executive Office of Elder Affairs determined that there were 400 Home Care Clients awaiting placement; and in the Spring of 1988, the Massachusetts Hospital Association released data that on one specific day there were 919 people of all payor types waiting for a Long Term Care bed in hospitals in Massachusetts. Generally acknowledged as only the "tip of the iceberg", these studies represent more than 1300 elders who, on any given day, need a bed. None of the studies take into account the number of elders who reside in the community and are in need of a placement but do not have formal contact with a Home Care Corporation.

Medicaid Discrimination

Medicaid Discrimination continues to be the most common reason a Medicaid Recipient has difficulty gaining access to a nursing home bed. The industry has raised several valid issues about the general availability of beds, but has never been able to rebut the fact that a Medicaid Recipient waits two to three times as long for a bed. The simple fact is, that in Massachusetts, Medicaid Discrimination is against the law. The facilities that practice Medicaid Discrimination are guilty of an unlawful act. One of the biggest obstacles to ensuring justice and enforcing the law, is the lack of a reasonable enforcement mechanism.

Elders or families that call nursing homes are told that the waiting list is too long and it is not worth placing a name on the list. However, when asked to produce a list or tell an elder supposedly on the list what position he or she is, many homes are unable to comply.

Consider a recent complaint to the Ombudsman Program that was referred to the Attorney General's Office for action:

"When I first asked to see the facility, the social worker told me I would be wasting my time since they had no room and wouldn't for quite some time. I then asked her if she knew of any places where there was room and that my mother could afford up to $150.00 per day. She acted quite surprised I was not asking for Medicaid and then replied `Oh, isn't this a coincidence, I just noticed we do have a lovely room available.' The social worker told me she would hold it until we had our appointment a few days later. She required me to bring extensive financial records including my mother's 1987 tax return to `prove that she could afford it.' She then directly inquired as to how much money my mother had."

The elder referenced in this complaint was offered several beds. However, the daughter was so appalled at how other elders might be treated, she filed the complaint.

Availability of Beds
Bed Planning

The Commonwealth's nursing homes are operating at 98% occupancy level, and access to rest homes, although not at such a high occupancy level, has been adversely affected by a significant number of closures. Current bed planning formulas do not adequately address the needs of today's or tomorrow's elders.

From January 1987 through May of 1988, a total of 1200 new beds were licensed. However, during the same period, nearly 1100 were closed, for a total gain of only 144 new beds or less than 1%. Planning figures call for 1,973 more beds in addition to the nearly 5000 beds approved but not yet licensed (BANYL). If the beds continue to depart from the system at 92% of the newly licensed rate, there will only be a net increase, after all currently planned beds are built of approximately 850-900 new beds. Given that at the present time, the hospital and home care industries report that more than 1300 people are waiting for a bed, this is clearly inadequate for today's needs and will create a serious shortage in five years, if nothing is changed.

Availability of Land

The number of elders over the age of 85 is the fastest growing population group in the United States. This is particularly true in large urban areas. However, there has been little growth in the number of new beds in these areas, largely due to the availability and cost of land.

Zoning problems continue to plague the developers of new homes. Neighbors and abutters seem reluctant to permit construction, citing noise and traffic as major problems. However, these same individuals fail to plan for the long term care needs of community elders or perhaps their own family members and are deeply disturbed to learn the elder will be placed far away from friends and families once the placement is necessary.

These types of barriers have a significant impact on the quality of life for residents of nursing and rest homes. If land cannot be obtained in a residential area, the alternative of light industrial or a commercial zone is clearly not as desirable. Many light industrial areas are not serviced by public transportation, making it difficult for friends and relatives to visit. Additionally, many residents are very much aware of their environments and take great pleasure looking out the window or sitting out of doors. Few of us would choose to live in a light industrial area, but restrictive zoning is forcing many to do so.

Progress

The Determination of Need Program continues to include requirements for all nursing home approvals that the facility must admit 60% Medicaid residents the first year and then maintain the local average of Medicaid occupancy thereafter. Additionally the Determination of Need Program has pursued facilities that have failed to comply with these conditions and may impose fines for non-compliance.

The Rate Setting Commission and the Department of Public Welfare have implemented the new Prospective Payment System on a pilot basis which ties payment to the resident's care needs. This new system will hopefully eliminate the disincentive to admitting heavy care Medicaid residents.

The Attorney General's Office is in the process of developing new Patient's Rights Regulations which will implement many of the new federal requirements and also extend consumer protections to admissions to nursing homes.

The Legislature enacted Chapter 23 of the Acts of 1988 which called for reforms to permit under-utilized hospital beds to be converted to Skilled Nursing Beds and also mandated an expedited process for the development of new nursing home beds in urban-underbedded areas.

Recommendations

Recommendation #1

The Legislature should enact a bill that guarantees fair and equal access to all nursing homes in Massachusetts by requiring all facilities to keep waiting lists and to admit in the order that names appear on the list.

Recommendation #2

The Legislature should enact the bill filed by the Executive Office of Elder Affairs which calls for the development of an appeals board to review the negative verdicts of local zoning boards for the construction of nursing or rest homes, and gives the board of authority to override decisions if it is deemed in the public interest.

Recommendation #3

The Department of Public Health should move forward on the implementation of the regulations for the provisions of Chapter 23 which are designed to increase the supply of nursing home beds.

Recommendation #4

The Interagency Council and in particular, the Executive Office of Human Services, should develop an alternative to the present bed planning process that accurately reflects the future needs of elders in the Commonwealth for nursing and rest home beds rather than basing future needs on past utilization rates that have been kept artificially low.

Residents Rights

The Ombudsman Program received 682 complaints regarding violations of resident rights. These complaints are often the most varied but tend to have an enormous impact on residents' quality of life. Ombudsmen report that many of the complaints are not a direct result of staff trying to violate residents' rights, but often happen because staff is untrained and rushed. Despite the cause, residents feel the effects.

Lack of Respect

Residents of nursing and rest homes have led long, productive lives. They have held responsible positions in the community and have raised families. However, once they enter a nursing or rest home, they are often denied the right to make choices or have a say in the treatment they receive. Untrained staff often equate physical infirmity with diminished mental capacity. Complaints from residents such as being told what to wear, threatened with punishment for failure to comply with a staff request, and having their medical conditions discussed as if they were not present are common problems.

Inappropriate Room Transfers

Another facet of Medicaid Discrimination appears when residents' private funds are expended and they are moved from a private to a multiple bed room as cited in 79 cases. Other types of unannounced room changes for staff convenience happen frequently. Residents have not been given written advance notice as is required by regulation nor have they received any type of preparation for the move in order to minimize the amount of anxiety they experience. Residents have returned from lunch or a shower to find that they have had a room change. Personal items and clothing are often lost in the change. Large items such as televisions or a favorite chair may take several days to be moved. These practices do not foster a homelike environment for residents.

Privacy

A major problem which residents suffer is a lack of privacy. Not only does the physical environment of a facility limit privacy, but rushed, untrained staff forgetting to pull a curtain or shut a door often literally expose residents receiving personal care or who are toileting. Simple regard for a person's dignity is not observed.

Another area which continues to be problematic for residents is the lack of privacy during telephone calls. Although the Legislature mandated residents' having access to a private, handicapped accessible phone, many facilities do not cooperate with the spirit of the law nor are they cited for failure to comply with the licensure regulations which address the issue. Some of the phones which Ombudsman have reported are wedged under stairways making the use by a wheelchair bound resident impossible. The other common placement is directly beside or across from the nurses station and the phone booth is not enclosed for private conversations.

Improper Restraints

Currently, Massachusetts Licensure regulations required facilities to have a doctor's order stating the need for a restraint and are required to check a resident who is restrained and appropriately ambulate or change position a minimum of every two hours. In many cases of neglect which the Ombudsman Program has reported to the Department of Public Health, residents who are improperly restrained or whose restraints are not released for sometimes six hours, are found justified. Residents are often restrained for the convenience of the staff and without doctor's orders.

Personal Needs Allowance

As the residents' personal needs allowances continue to grow, it creates more opportunity for mismanagement by facility staff. Nursing home residents presently receive $70.00 per month and SSI recipients living in rest homes receive $79.84 per month. These monies are to purchase clothing, personal items and participate in special activities. Both the Department of Public Health and the Department of Public Welfare have regulations which govern the oversight of residents' funds. However, there is little actual auditing done on these accounts. Most of the enforcement resolves around the Department of Public Health checking to make certain the accounts are all kept in bound books.

Example #1

> A rest home was sold in December 1987. The large percentage of the residents in the facility had given their funds to the rest home to be managed. Upon the sale, the previous owners were asked to supply the resident account books and funds. After several months had past, with multiple excuses being given, the Ombudsman Program intervened and eventually turned the case over to the Attorney General's Office for investigation and action. The funds in dispute are significant, with several of the residents being owed more than several hundred dollars.

Example #2

A home had been cited on several occasions for failing to properly account for residents funds. There was never any money kept in the facility for the residents to easily withdraw. P.N.A. funds were often used to pay for bread and milk deliveries, when the facility was forced to establish petty cash funds. The facility subsequently declared bankruptcy and it is very unlikely that the residents will ever recover their funds as they were not kept in a separate account but were co-mingled with other funds.

Progress

The Omnibus Budget Reconciliation Act (OBRA) of 1987 called for significant reforms to residents' rights which would protect residents from improper restraints, gives specific guidelines for intra-facility room and roommate changes, and the rights of residents to make informed decisions.

Once completed, the new Consumer Protection Regulations being developed by the Office of the Attorney General, should do much to enhance residents' rights.

Recommendations

Recommendation #1

The Department of Public Health should revise the Long Term Care Licensure Regulations to require mandatory, quarterly in-service education programs in all nursing and rest homes on proper use of restraints and the resident's right to be treated with respect.

Recommendation #2

The Department of Public Health should amend the construction requirements for all new long term care facilities to include the provision of at least one private visitor's room on each floor that is equipped with a telephone to ensure that residents have space to hold a private conversation.

Recommendation #3

The Department of Public Welfare should develop a team of people to conduct on-site auditing of residents' personal needs allowance accounts and when appropriate, sanction facilities and order restitution for mismanaged residents' monies.

Recommendation #4

The Executive Office of Elder Affairs should work with other state agencies to develop money management programs which will assist residents of nursing or rest homes and the community to oversee their funds. These programs would provide an alternative for the residents to having the facilities or uncooperative family manage the accounts.

Recommendation #5

The Department of Public Health should strictly enforce the requirements for handicapped, accessible private telephones for residents as well as those regulations which address the need for strong autonomous residents' councils.

Environment

Environmental issues continue to be a major area of complaint for residents. The Ombudsman Program reported a total of 961 complaints that had to do with the cleanliness of the facility, accessibility, accommodations, ventilation and maintenance . Temperature extremes had a dramatic impact to residents this past year which pointed to the need for improved ventilation and air conditioning in homes.

Accessibility

The Ombudsman Program identified the lack of accessibility as a major barrier to quality of life. Lack of ramps to the outside, activities space too small to maneuver a wheelchair and a lack of elevators were major issues. Ombudsmen and residents report that the lack of these often make residents prisoners in their own rooms. There is little enforcement of requirements for handicapped accessibility for many of the homes, particularly the older converted facilities. There are no provisions for access to a secure outside space for residents.

Ventilation

The extreme temperatures for the past two summers have been particularly oppressive for the residents of nursing and rest homes. Ombudsmen report that the humidity particularly, for bed-bound residents is harmful. Further, staff are affected by the temperature and humidity and the unpleasant environment is not conducive to productive, caring employees. Facilities count themselves as lucky if no resident is sent to the hospital for dehydration or there are not a number of deaths during a heat spell.

Proper ventilation year round is necessary to maintain a homelike, odor free environment. Ventilation in bathrooms is essential to providing sanitary conditions. Residents, like visitors are aware of the pervading smell of urine.

Accommodations

One of the biggest adjustments which residents must make when entering a facility is having to share a room and a bathroom. Unfortunately many residents must become accustom to sharing a room and bathroom with as many as five other people. These conditions remove any type of privacy during dressing, bathing, or toileting that is essential to anyone's dignity.

Unfortunately, because there are many nursing and rest homes that are converted old homes, the goal is to maximize the bed capacity and not promote the most pleasant, appropriate environment. Often, space for appropriate activities and dining is sacrificed. Many of these facilities operate on waivers that were granted more than ten years ago which exempt them from square footage requirements or other requirements that are designed to promote a homelike environment.

The blame does not rest with the providers alone. Many of the facilities are fully depreciated and have an extremely low reimbursable basis. Also, many of these facilities are small operations which do not have access to capital to make physical improvements. The current Rate Setting process makes reducing the number of beds to create a less cramped space financially unmanageable because the rates would not be enhanced to make up for a reduction to cash flow.

Progress

The physical plant problems of older wood frame level III and rest homes facilities is recognized by a broad based group of state agencies. There have been interagency task forces consisting or representatives from the Executive Offices of Human Services and Elder Affairs organized to address some of the issues.

The Interagency Council, has been examining strategies for the use of rest homes which include financing improvements and identifying alternative services that still provide needed services to elders.

Chapter 23 of the Acts of 1988 called for the conversion of underutilized hospital space for non-acute services including skilled nursing beds. The Executive Office of Elder Affairs developed a twenty-three point plan aimed at ensuring proper homelike environments in hospital conversions. The majority of these points will be included in the final regulations developed by the Department of Public Health.

The Executive Office of Elder Affairs has had similar success in influencing the development of Determination of Need Applications to include quality of life components such as access to a secured outside area, size and capacity of common areas, and access to the community.

Recommendations

Recommendation #1

The Department of Public Health should require all facilities to come into compliance with space and environment requirements and revoke all existing waivers by 1990. No more than three people should be permitted to share a room and a bathroom, and all facilities should be required to have adequate activities space and handicapped accessible ramps for entrances and exits.

Recommendation #2

The Office of Handicapped Affairs and the Department of Public Health should develop a meaningful enforcement program for handicapped accessibility in all nursing and rest homes.

Recommendation #3

The Rate Setting Commission should develop flexibility within its regulations to promote creative reimbursement for older facilities that are committed to improving environments by making capital improvements and reducing the patient census. The flexibility could include accelerated depreciation rates that acknowledged some positive differential for reduction in beds and examination of the set basis.

Recommendation #4

The Department of Public Health should amend the regulations for construction of new facilities and require air conditioning for all patient and staff areas. Additionally requirements for existing facilities should include, at a minimum, provisions for air conditioning in all patient common areas, halls and staff areas.

Recommendation #5

The Executive Offices of Elder Affairs, Human Services and Communities and Development and the Massachusetts Housing Finance Agency should cooperate to identify a financial resource for facilities which seek funding to make capital improvements, expansion, or conversions to desirable uses.

Activities

The importance of meaningful activities is often minimized in long term care facilities where the staff pursues a medical model rather than developing a homelike environment. Unfortunately, present licensure regulations do not reinforce the need for a strong activities program that is significantly diversified and meets the needs of all the residents.

Variety of Activities

Recent studies with Alzheimer's residents indicate that even the most debilitated will benefit from the stimulation of activities. As residents are being admitted to nursing and rest homes far more impaired than in previous years, there is a need to develop individual activities plans, in addition to group programs such as bingo. Further, activities space needs to be appropriate for handicapped residents.

Qualifications of the Activities Director

The new demands for diversified activities have placed increased burdens on the skills of the activities director. Despite the need for increased professionalism and recognizing activities as a critical component of any care plan, the licensure requirements for activities directors have not been up-graded to reflect the new demands.

Lack of Contact with the Community

One of the most common fears elderly people have about being placed in a nursing or rest home involves their feeling that they will be isolated from family and friends. Many residents were active members of the community and would like to maintain their involvement. Additionally, the philosophy of the home regarding the involvement of the community is essential. Facilities which understand the importance and benefit of community involvement generally promote independence and involvement of the residents.

Increasing community involvement requires a facility that believes it is doing a good job caring for the residents and is not afraid to have the home open to visitors. The greater the involvement of the community, the more the home opens itself for scrutiny and generally the more homelike environment it creates.

Transportation

Few facilities in the Commonwealth have adequate handicapped accessible transportation for residents. Many homes are not on public transportation routes, limiting visitors and potential staff without access to a car. Often traditional sources of elderly transportation are reluctant to serve nursing and rest home residents with scarce resources, believing that the home should provide the services. This attitude perpetuates residents' sense of isolation.

Progress

The Executive Office of Elder Affairs funded six Council on Aging demonstrating projects that are designed to increase the Council on Aging's involvement with area nursing and rest home residents. Several of the grants included transporting residents to local Senior Centers to participate in social activities. This type of project will continue to be a priority in FY '89.

The Massachusetts Long Term Care Foundation continues to support the Massachusetts Council of Activities Directors, an organization designed to strengthen the professionalism of activities directors and offer activities directors the opportunity to broaden their skills.

Recommendations

Recommendation #1

The Department of Public Health should work with the Council of Activities Directors and consumer groups to develop new standards for the training and skill level of activities directors that will meet the needs of residents.

Recommendation #2

The Department of Public Health should revise the regulations for licensure of long term care facilities and require that each resident receive a minimum of two hours a week of meaningful activities that may be group or individually focused. Each resident's chart would be required to be noted on a weekly basis the type of activity, delivered by whom and where the activity took place. Activities would be specifically geared to the resident's needs. Watching television or walking outside of the building unescorted would not be considered a fulfillment of these requirements.

Recommendation #3

The Long Term Care Industry and the Executive Office of Elder Affairs should develop more programs that will enhance nursing and rest home resident's interaction with community groups.

Recommendation #4

The Executive Offices of Human Services, Transportation and Elder Affairs should develop a comprehensive, statewide plan that will expand nursing and rest home residents' and visitors' access to handicapped accessible transportation on a routine basis.

Recommendation #5

The Long Term Care Industry should continue its efforts to promote the professional qualifications of activities directors and assist in the diversification of programming. New programs might include libraries and courses in foreign languages to enable residents to communicate to staff who are non-English speaking.

Other Issues

Receivership

Presently when the Commonwealth initiates a Receivership action against a facility, there are two major barriers to the efficient and effective use of the patient protective measure. The first is an underfunded emergency fund that limits receivers accessing the necessary funds to forestall a crisis. The second problem is the construction of the Receivership Law M.G.L. Ch. 111 Sections 72 M-O which requires the Rate Setting Commission to treat Receiverships in the same manner as other nursing or rest home providers. This requirement eliminates the Commonwealth from initiating innovative reimbursement actions to protect residents who are the subject of a patient protective receiver.

Recommendations

Recommendation #1

The Legislature should enact a bill filed by the Executive Office of Human Services/Department of Public Health and supported by the Executive Office of Elder Affairs which seeks to make improvements and clarifications of the Massachusetts Receivership Statute.

Recommendation #2

The Attorney General's Office and the Executive Office of Administration and Finance should develop a cooperative proposal which would allow all fines collected in nursing or rest home enforcement cases to be deposited in the Emergency Fund for Receiverships.

Spirituality

Practicing one's religion is particularly difficult in a nursing or rest home. With the diminishing ranks of clergy, elderly residents, who generally are among the most devout, often do not have access. Another problem which has an impact on the situation is that clergy now require compensation to provide services. Pastoral Service is not considered a reimbursable expense and therefore facilities are often unable to purchase the services of clergy for their residents.

Recommendation

The Rate Setting Commission should amend its regulations to include pastoral services as a reimbursable cost.

Missing Personal Possessions

A constant problem that many nursing and rest home residents face is stolen or misplaced items. The possessions range from television sets to diamond rings to dentures and glasses. Facilities commonly refuse to take responsibility for these missing items. For a Medicaid Resident the loss of glasses or dentures can be devastating because the Department of Public Welfare only permits replacement once in an eighteen month period. This means residents often must do without glasses or dentures for a very long period of time or wait until they have sufficient personal needs allowance funds to replace the missing items with their own funds.

The Ombudsmen investigated 233 complaints of personal items being lost, stolen, or used by others. Some items, such as wedding or engagement rings are impossible to replace due to their sentimental value. However, residents should be entitled to some compensation and acknowledgment that the facility does not condone theft.

Recommendations

Recommendation #1

The Department of Public Health should amend its regulations to require all facilities to keep an up-dated inventory of all residents' possessions and to require the identification, either by engraving or other means, of all residents' dentures, eyeglasses and hearing aides.

Recommendation #2

The Attorney General's Office should amend its regulations to include a provision that the facility is responsible for the possessions of residents that are lost or stolen while in the facility and shall require the facility to reimburse the resident for the value of the item.

APPENDICES

STATE LONG TERM CARE OMBUDSMAN PROGRAMS

(617) 727-7750

PROGRAM AREA	PROGRAM DIRECTOR	TELEPHONE NUMBERS
CITY BOSTON	MARY JANE JACKMAN	(617) 725-3958
ROSLINDALE/JAMAICA PLAIN	MARIETTA MCCARTHY	(617) 325-6565
DORCHESTER/EAST BOSTON	MARIETTA MCCARTHY	(617) 325-6565
BRIGHTON/ROXBURY	MARIA BURRELL	(617) 742-6830
BRAINTREE	VONNE BARNETT	(617) 848-3910
BROCKTON	SUZANNE RYAN	(508) 583-1833
BROOKLINE/NEWTON	JANET RUBOY	(617) 566-5716
CAMBRIDGE/SOMERVILLE	JENNI CALDWELL	(617) 628-2601
CAPE COD AND THE ISLANDS	RALPH GOLDING	1-800-352-7178
CHELSEA/REVERE/WINTHROP	BARBARA LAVIN	(617) 286-0550
FALL RIVER/ATTLEBORO	MARGARET PILKINGTON	(508) 226-5378
FOXBORO	SUSAN JOHNSON	(508) 769-7440
FRAMINGHAM	HARRIET SIEGAL	(508) 620-0840
GLOUCESTER	BETTY HILL	(508) 281-1750
GREENFIELD	CHRISTINE BARONAS	(413) 774-3747
HOLYOKE/CHICOPEE	KATHERINE NOWAK-CRANE	(413) 538-9020
LAWRENCE	BETTY PHANEUF	(508) 683-7747
LEOMINSTER	DARLENE HUMPHREY	(508) 534-8558
LEXINGTON	JOANNE CHUSLO	(617) 861-0896
LYNN	BETTY DEMPSEY	(617) 599-0110
MALDEN	WENDY WORELL	(617) 322-4766
MILFORD	ANN LEWIS	(508) 478-0820
NEW BEDFORD	FRANK SILVA	(508) 999-6400
NORTHAMPTON	MARCIA WALLACE	1-800-322-0551
PEABODY	PAMELA MACDONALD	(508) 535-6220
PITTSFIELD	JANE CUYLER	1-800-292-5011
SPRINGFIELD	PATRICK McMAHON	(413) 733-2149
WORCESTER	KIM MYLES	(508) 755-4388

SUMMARY OF LONG TERM CARE COMPLAINTS
INVESTIGATED BY STATE REGULATORY AGENCIES
FISCAL YEAR 1988

COMPLAINT CATEGORY	ELDER AFFAIRS	PUBLIC HEALTH	ATTORNEY GENERAL	PUBLIC WELFARE	BOARD OF REGIS OF N.H. ADM.	TOTAL COMPLAINTS	% OF TOTAL
RESIDENT CARE							
ABUSE AND NEGLECT	225	335	393	-	-	953	11.8
NURSING SERVICES	1391	446	-	-	-	1837	22.8
MEDICAL EQUIPMENT	177	-	-	-	-	177	2.2
PHYSICIAN SERVICES	97	6	-	-	-	103	1.3
MEDICATION PROBLEMS	121	-	-	-	-	121	1.5
LACK OF OTHER SERVICES	314	45	-	-	5	364	4.5
SUBTOTAL	2,325	832	393	-	5	3,555	44.1
FORMAL ACTIVITY PROGRAMS	164	12	-	-	-	176	2.2
FINANCIAL ISSUES	180	6	16	6	-	208	2.6
FOOD SERVICES	656	45	-	-	-	701	8.7
ADMINISTRATIVE PROBLEMS	713	88	15		3	819	10.2
RESIDENTS RIGHTS	682	99	1	-	-	782	9.7
BUILDING AND SANITATION	961	65	-	-	3	1029	12.8
OTHER	759	32	-	-	-	791	9.8
TOTAL COMPLAINTS	6,440	1,179	425	6	11	8,061	100.0

EXECUTIVE OFFICE OF ELDER AFFAIRS
LONG TERM CARE OMBUDSMAN PROGRAM
PROGRAM COVERAGE, SERVICES AND STAFFING

PROGRAM COVERAGE OF LTC FACILITIES:	FY 1987	FY 1988	INCREASE #	INCREASE %
Facilities Visited Regularly	643	708	+65	+10%
Residents Visited Regularly	47,146	52,193	+5047	+11%

PROGRAM SERVICES:	FY 1987	FY 1988	INCREASE #	INCREASE %
Total Facility Visits	26,783	29,985	+3202	+12%
Total Resident Interviews	1,011,374	1,279,225	+267,851	+26%
Total Complaints Investigated	5,164	6,440	1,276	+25%
Requests for Information and Referrals	4,839	5,291	+452	+9%
Community Outreach Presentations	374	519	+145	+39%

PROGRAM STAFFING:	FY 1987	FY 1988	CHANGE
State Level Staff	8	8	-
Substate Program Staff:			
Local Ombudsman Directors	27	27	-
Volunteers	133	129	-4
Elder Service Corps	80	80	-
Senior Aides	25	27	+2
Others	25	26	+1
Total Substate Staff	290	289	-1
Total Program Staff	298	297	-1

EXECUTIVE OFFICE OF ELDER AFFAIRS
LONG TERM CARE OMBUDSMAN PROGRAM

COMPLAINTS INVESTIGATED IN FISCAL YEAR 1988

COMPLAINT CATEGORY	#	% of Total
RESIDENT CARE		
Abuse and Neglect---------->	225	3.5
Inadequate Hygiene Care---------->	229	3.6
Rehabilitative and Restorative Nursing-------->	147	2.3
Unanswered Help Calls---------->	189	2.9
Poor Medical Equipment---------->	177	2.7
Quality, Lack of Physician Services---------->	97	1.5
Medication Problems---------->	121	1.9
Quality, Lack of General Nursing Services (Staff Attitudes and training, Inadequate supervision of Resident)---------->	826	12.8
Quality, Lack of Other Services (diagnostic, dental, social, etc.)---------->	314	4.9
SUBTOTAL	2,325	36.1
FORMALIZED ACTIVITIES PROGRAMS----------> (quality, lack of)	164	2.5
FINANCIAL ISSUES----------> (e.g. Access to own money denied, Improper Accounting)	180	2.8
FOOD SERVICES----------> (e.g. unappetizing, little variety, food served cold)	656	10.2
ADMINISTRATIVE PROBLEMS----------> (e.g. understaffing, room assignments, Medicaid Discrimination)	713	11.1
RESIDENT RIGHTS----------> (e.g. Personal items lost or stolen; residents not treated with dignity and respect; violation of privacy)	682	10.6
BUILDING AND SANITATION----------> (e.g. cleanliness, safety factors, heating, cooling, and ventilation)	961	14.9
COMPLAINTS NOT AGAINST FACILITY----------> (e.g. residents' adjustment at facility; legal wills, and guardianship; community placement needed.)	759	11.8
TOTAL COMPLAINTS INVESTIGATED---------->	6,440	100.0

DEPARTMENT OF PUBLIC HEALTH
LONG TERM CARE COMPLAINTS INVESTIGATED
FISCAL YEAR 1988

COMPLAINT CATEGORY	#	% of Total
RESIDENT CARE	838	71.1
Patient Care	265	22.5
Patient Abuse	335	28.4
Lack of Nursing Services	73	6.2
Quality of Nursing Services	108	9.2
Formalized Programs	12	1.0
Quality and Lack of other Services	45	3.8
PHYSICIAN SERVICES	6	0.5
Lack of Medical Services	4	0.3
Quality of Medical Services	2	0.2
FINANCIAL	6	0.5
FOOD SERVICES	45	3.8
ADMINISTRATIVE	88	7.5
Administrative Policies	72	6.1
Personnel	14	1.2
Incidents Facility	2	0.2
RESIDENT RIGHTS	99	8.4
BUILDING/SANITATION	65	5.5
Cleanliness	47	4.0
Physical Plant	18	1.5
Other	32	2.7
Total Complaints	1179	100.0

STATE REGULATORY AGENCIES
LONG TERM CARE COMPLAINTS INVESTIGATED
FISCAL YEAR 1988

DEPARTMENT OF THE ATTORNEY GENERAL	#	% TOTAL
Resident Care		
Patient Abuse---------->	308	72.5
Patient Neglect---------->	85	20.0
	393	92.5
Administrative		
Medicaid Discrimination---------->	4	0.9
Neglect/Receivership---------->	11	2.6
	15*	3.5
Patients Rights Violations		
Residents Kept in Facility Against Will--->	1	0.2
Financial		
Personal needs Allowance Accounts-------->	14	3.3
Illegal Contract---------->	1	0.2
Questionable Charges (Retroactive payment requested)---------->	1	0.2
	16	3.8
Total Complaints---------->	425	100.0

DEPARTMENT OF PUBLIC WELFARE		
Personal Needs Allowance Accounts------->	6	100.0

BOARD OF REGISTRATION OF NURSING HOME ADMINISTRATORS TOTAL	#	%
Poor Care in the Facility ---------->	5	45.5
Poor Management of Facility---------->	3	27.3
Life Safety Code Violations---------->	3	27.3
	11	100.0

*The number of cases indicated is not representative of the number of elderly patients benefited by these actions. Each of these cases was brought on behalf of all patients in each of the facilities which range from 28 to 161 beds each.

LONG TERM CARE FACILITY COMPLAINTS
OUTCOMES OF INVESTIGATIONS BY STATE AGENCIES
FISCAL YEAR 1988

EXECUTIVE OFFICE OF ELDER AFFAIRS	
Total complaints Investigated	6440
Percent Justified	62%
Referrals to Dept. Public Health	332
Referrals to Attorney General's Office	337
DEPARTMENT OF PUBLIC HEALTH	
Total complaints Investigated	1179
Percent Justified	33%
Deficiency letters sent	204
Consultations Provided	200
Referrals to Attorney General's Office	124
Facilities Decertified	2
Facilities Placed in Receivership	1
Facilities Placed in Functional Receivership	2
Agreements in Lieu of Decertification or Receiverships	14
Voluntary Closures:	18
Nursing Homes	10
Rest Homes	8
DEPARTMENT OF THE ATTORNEY GENERAL	
Total Abuse and Neglect Complaints	393
Criminal Investigations made	26
Criminal Prosecutions	3
Criminal Convictions	2
Referrals for Civil Administrative Action	367
Dept. of Public Health	363
Consumer Protection (AG)	2
State and Local Police	2
Total Personal Needs Allowance Complaints	14
Cases with Restitution Secured ($19,050)	3
Complaints not Justified	9
Cases pending	5
Cases in Violation of Consumer Protection Statute (Chap. 93A)	18
Cases in Receivership	4
Resolved, Justified	5
Total Restitution Secured: $600,000 +	
Cases Pending	9

OUTCOMES OF INVESTIGATIONS CONTINUED

BOARD OF REGISTRATION OF NURSING HOME ADMINISTRATORS	
Total Complaints Received	11
Surrender of Licenses	2
Two years -1	
Five years -1	
Reprimand given	2
Complaints Dismissed	6
Case Pending	1

DEPARTMENT OF PUBLIC WELFARE	
Total Personal Needs Allowance Complaints	6
Percent Justified	50%
Patients/Residents Relocated	726
Patients of Nursing Homes	499
Residents of Rest Homes	227

DEPARTMENT OF MENTAL RETARDATION

1. Assigned service coordinator to 193 residents
2. Developed ISP for each resident
3. Provided monthly visits to each resident by a service coordinator
4. Provided Day Services to 25 class members